

STATEMENT OF CONSIDERATIONS

REQUEST BY BABCOCK & WILCOX COMPANY (B&W)
FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN RIGHTS
UNDER DOE COOPERATIVE AGREEMENT NO. DE-FC36-94GO10002;
W(A)-94-030; CH-0847

This waiver request is for domestic and foreign rights for all subject inventions made by the Babcock & Wilcox Company's (B&W's) employees under the subject cooperative agreement.

The object of the work to be performed under this cooperative agreement is to develop technologies to improve high solids firing of black liquor in pulp mill recovery boilers or to recover kraft pulping or mill process chemicals by alternate means involving black liquor gasification. Principally, the work involves evaluating and selecting either the high solids advanced combustion or black liquor gasification technology, designing, constructing and using a pilot scale unit to develop data necessary to support commercial design of the technology selected, and developing and deploying a commercial unit at an operating kraft pulp mill.

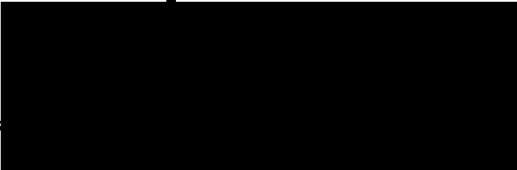
The total approved budget for the project is \$1,149,517. The total DOE share of the approved budget is \$919,592, with B&W providing \$229,925 for about twenty percent (20%) cost sharing. The continuation of the waiver is contingent upon B&W maintaining, in aggregate, substantially the above cost sharing percentage during the course of the agreement.

As noted in its waiver petition, B&W has over 130 years of experience in boiler design and development of a variety of sizes and configurations utilizing a variety of fuels. Additionally, B&W has extensive experience in the applications of kraft chemical recovery boiler technology. B&W anticipates that the improvements in process recovery technology developed under this agreement will produce the next generation of retrofits for existing pulp mills, as well as providing new equipment for existing and new pulp mills. Accordingly, given its extensive experience and unique position in the industry, B&W can be expected to promote the development and commercialization of the technology forming the subject matter of this agreement.


Referring to B&W's response to question 10, grant of this waiver is not expected to have an adverse impact on competition or market concentration given the variety of competing technologies currently available. Rather, granting this waiver can be expected to increase competition by adding competitive alternatives in the existing advanced combustion or gasification technologies.

B&W has agreed to accept the terms of the above-identified contract including the usual Government license, march-in rights and preference for U.S. industry similar to those set forth in 35 USC 202, 203 and 204. Additionally, B&W has agreed to accept the attached U.S. Competitiveness clause and a background data licensing provision to further assure the timely commercialization of the subject matter of the agreement.

Considering the foregoing, it is believed that granting this waiver will provide B&W with the necessary incentive to invest its resources in the commercialization of the results of the cooperative agreement in a fashion that will make the technology available to the public in the shortest possible time. Therefore, in view of the objectives and considerations set forth in 10 CFR Part 784, all of which have been considered, it is recommended that the requested waiver be granted.


Thomas G. Anderson
Assistant Chief Counsel
Office of Intellectual Property Law

Date: 2-27-97


Daniel D. Park
Patent Attorney
Office of Intellectual Property Law


Date: 2/27/97

Based on the foregoing Statement of Considerations and the representations of the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:


Douglas Kaempf, Director
Office of Industrial Process Systems
EE-23

APPROVAL:


Paul A. Gottlieb, Assistant
General Counsel for Technology Transfer
and Intellectual Property